

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of)	
)	
Minority Educational Broadcasting Association)	Facility ID No. 135742
)	NAL/Acct. No. MB-202141410030
For Renewal of License for)	FRN: 0008014045
Station WPJM-LP)	File No. 0000105233
Palatka, Florida)	

ORDER

Adopted: August 20, 2021

Released: August 20, 2021

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it a request to cancel a Notice of Apparent Liability (*NAL*)¹ issued to Minority Educational Broadcasting Association (Licensee), licensee of low-power FM Station WPJM-LP, Palatka, Florida (Station), for apparently willfully violating section 73.3539 of the Commission's rules (Rules)² by failing to timely file a license renewal application for the Station and willfully and repeatedly violating section 301 of the Communications Act of 1934, as amended (Act)³ by engaging in unauthorized operation of the Station after its authorization had expired. As discussed below, we cancel the forfeiture and instead admonish Licensee for the violations.

II. BACKGROUND

2. The Commission's base forfeiture amount for the failure to file a required form is \$3,000.⁴ The guidelines also specify a base forfeiture amount of \$10,000 for construction and/or operation without an instrument of authorization for the service.⁵ In the *NAL*, the Bureau proposed a reduced forfeiture amount of \$3,500 because, as an LPFM station, the Station is providing a secondary service.⁶ Licensee timely responded to the *NAL*.⁷ In its response, Licensee maintains that its failure to timely file the renewal application was not willful because it resulted from unintentional oversight, and

¹ *Minority Educational Broadcasting Association*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-799 (MB Jul. 7, 2021) (*NAL*).

² 47 CFR § 73.3539.

³ 47 U.S.C. § 301.

⁴ See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(4), note to paragraph (b)(4), section I.

⁵ A broadcast station requires an authorization from the Commission to operate. See 47 U.S.C. § 301.

⁶ See, e.g., *Virginia Center for Public Press*, Memorandum Opinion and Order and Notice of Apparent Liability, 34 FCC Rcd 9312 (MB 2019) (reducing \$3,000 base forfeiture to \$1,500 for untimely filed renewal application for LPFM station); *Lighthouse Ministries of Northwest Ohio*, Memorandum Opinion and Order and Notice of Apparent Liability, 36 FCC Rcd 4825 (MB 2021) (proposing \$3,500 forfeiture for untimely filed renewal application and unauthorized operation of LPFM station).

⁷ Letter from Minority Educational Broadcasting Assoc. to Albert Shuldiner, Chief, Audio Division, Media Bureau (rec'd Aug. 6, 2021).

argues that the Commission did not give Licensee opportunity to demonstrate or achieve compliance in accordance with section 558(c)(2) of the Administrative Procedure Act (APA).⁸ Lastly, Licensee requests cancellation of the *NAL* due to inability to pay.

III. DISCUSSION

3. In the context of a forfeiture action, “willful” does not require a finding that the rule violation was intentional. Rather, the term “willful” means that the violator knew that it was taking the action in question, irrespective of any intent to violate the Rules,⁹ and the Commission has long held that violations resulting from inadvertent error or failure to become familiar with the Commission’s requirements are willful violations.¹⁰ As such, we are not persuaded by Licensee’s argument that its failure to timely file its renewal application was not willful due to unintentional oversight.

4. Licensee’s interpretation that section 558(c)(2) of the APA grants it opportunity to demonstrate or achieve compliance with the law before imposition of a monetary forfeiture is also incorrect.¹¹ Section 558(c) states in pertinent part that “[e]xcept in cases of willfulness . . . the withdrawal, suspension, revocation, or annulment of a license is lawful only if . . . license has been given notice . . . and opportunity to demonstrate or achieve compliance.”¹² This action does not attempt to revoke or otherwise cancel the Station’s license, and the *NAL* specifically noted that the Bureau would in fact renew Licensee’s license for the Station upon completion of the forfeiture proceeding.¹³ Thus, Section 558(c)(2) is inapplicable here.

5. As noted in the *NAL*, the Commission will not consider reducing or cancelling a forfeiture in response to claimed inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the respondent’s current financial status.¹⁴ Licensee indicates that it does not generate any funds and therefore does not have or maintain a bank account. Licensee also states that any funds needed for station operations are obtained through donations. We accept Licensee’s showing that payment of the proposed forfeiture would create a financial hardship. Accordingly, we will cancel the proposed forfeiture.¹⁵ However, we admonish Licensee for its willful and repeated violation of section 73.3539 of the Rules and section 301 of the Act.

⁸ 5 U.S.C. § 558(c)(2).

⁹ 47 U.S.C. § 312(f)(1).

¹⁰ *Whidbey Island Center for the Arts, Forfeiture Order*, 25 FCC Rcd 8204 (MB 2010) (*Whidbey Island Forfeiture Order*) (citing *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088 (1992); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”)).

¹¹ 5 U.S.C. § 558(c)(2).

¹² *Id.*

¹³ *NAL* at 3, para. 8.

¹⁴ See *NAL* at 5, para. 14; *Discussion Radio, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 7433, 7441, para. 28 (2004), *forfeiture reduced on recon.*, 24 FCC Rcd 2206 (MB 2009).

¹⁵ See, e.g., *The Church of God, Inc. Emmanuel*, Order, 35 FCC Rcd 3492 (MB 2020) (cancelling notice of apparent liability for forfeiture and admonishing licensee that indicated it did not maintain a bank account and funded station through donations).

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to section 504(b) of the Communications Act of 1934, as amended,¹⁶ and sections 0.61, 0.283, and 1.80(f)(4) of the Commission's rules,¹⁷ the Notice of Apparent Liability for a Forfeiture (NAL/Acct. No. MB-202141410030) issued to Minority Educational Broadcasting Association **IS CANCELLED** and that Minority Educational Broadcasting Association is instead **HEREBY ADMONISHED** for its violation of section 73.3539 of the Commission's rules and section 301 of the Communications Act of 1934, as amended.

7. **IT IS FURTHER ORDERED** that the application for renewal of license filed by Minority Educational Broadcasting Association for Station WPJM-LP, Palatka, Florida (File No. 0000105233) **IS GRANTED**.

8. **IT IS FURTHER ORDERED** that copies of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Minority Educational Broadcasting Association c/o William Johnson, PO Box 32177, Palatka, FL 32177, and to William Johnson, 303 North 11th Street, Palatka, FL 32177.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁶ 47 U.S.C. § 504(b).

¹⁷ 47 CFR §§ 0.61, 0.283, 1.80(f)(4).